

LEGAL SERVICES

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MEMORANDUM

April 10, 2019

SUBJECT: Education funding (Work Order No. 31-LS0845)

TO: Representative Neal Foster
Attn: Brodie Anderson

FROM: Megan A. Wallace 
Director

You have asked for an opinion regarding the funding for education included in ch. 6, SLA 2018, and whether it was a valid appropriation. You also provided a letter from Donna Arduin, Director of the Office of Management and Budget, claiming that the language in ch. 6, SLA 2018, merely provides an "estimation for funding for K-12 education" for fiscal year 2020.

Sections 5(c) and (d), ch. 6, SLA 2018 provide:

(c) The amount necessary to fund the total amount for the fiscal year ending June 30, 2020, of state aid calculated under the public school funding formula under AS 14.17.410(b) is appropriated from the general fund to the public education fund (AS 14.17.300).

(d) The amount necessary to fund transportation of students under AS 14.09.010 for the fiscal year ending June 30, 2020, is appropriated from the general fund to the public education fund (AS 14.17.300).

The above language does more than provide an "estimation for funding for K-12 education." The appropriations in secs. 5(c) and (d), ch. 6, SLA 2018, fully fund K-12 education for fiscal year 2020 in an amount equal to the total amount of state aid calculated under the public school funding formula under AS 14.17.410(b) and the total amount for transportation of students calculated under AS 14.09.010. These appropriations take effect July 1, 2019.¹ The "amount necessary" language used in the above appropriations is standard appropriation language routinely used by the legislature to describe a means of calculating a total appropriation and has consistently been used in recent years to fund education.² By contrast, the legislature will include, on occasion, an

¹ Section 8, ch. 6, SLA 2018.

² See secs. 39(g) and (h), sec. 39, ch. 1, SSSLA 2017; secs. 26(h) and (i), ch. 3, 4SSSLA 2016; sec. 9(b), ch. 1, SSSLA 2015.

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"estimated" amount of an appropriation where a calculation is needed to determine the full amount of the appropriation and the final amount of the appropriation may not be determined until the end of the fiscal year. In those instances, the "estimated" amount is not legally binding or subject to line item veto and is included only for informational purposes. Moreover, the Governor acknowledged the validity of these appropriations in seeking to amend or repeal them in the budget he submitted to the legislature on February 21, 2019.³

Under art. III, sec. 16, Constitution of the State of Alaska, "[t]he governor is responsible for the faithful execution of the laws." Therefore, unless the legislature amends or repeals those appropriations, or the Governor challenges the validity of the above appropriations in court, the Governor has a constitutional obligation to execute the appropriations enacted in ch. 6, SLA 2018 when they take effect on July 1, 2019.⁴

If you have any additional questions, please advise.

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³ Sections 22(*l*) and 28, SSHB 39 (31-GH1905\M).

⁴ Even if the Governor were to challenge the validity of the appropriations made in ch. 6, SLA 2018, until a court issues an order invalidating those provisions, the Governor would be constitutionally required to execute the appropriations.